

**Health Services
and
Development Agency
Minutes**

February 25, 2004

AGENCY MEMBERS PRESENT

Gene Caldwell, M.D., Chair
Cheryl Cunningham, Vice Chair
Byran Atchley
Gregg Duckett, Esq.
E. Conrad Shackelford, M.D., designee for the TennCare Director
Robert E. Moore, Jr., Esq., designee for Commissioner of Commerce & Insurance
Faye Weaver, designee for the Comptroller of the Treasury

AGENCY MEMBERS ABSENT

Subhi Ali, M.D.
Carl Koella, III

AGENCY STAFF PRESENT

Melanie Hill, Executive Director
Mark Farber, Assistant Executive Director
Reid Brogden, General Counsel
Jim Christoffersen, Deputy General Counsel
Rhonda Blair, Office Manager
Melissa Bobbitt, Administrative Services Assistant II
Jeff Grimm, Health Planner III
Phil Wells, Health Planner III

GUESTS PRESENT

Jerry W. Taylor, Esq., Farris, Matthews, Branan, Bobango & Hellen, P.L.C.
John L. Wellborn, Development Support Group
Dan H. Elrod, Esq., Miller & Martin
Michael D. Brent, Esq., Boulton, Cummings, Conners & Berry, LLC
Kim H. Looney, Esq., Stokes, Bartholomew, Evans & Petree
Byron R. Trauger, Esq., Trauger, Ney & Tuke
Joel Ragland, M.D., Neurosurgery & Spine Consultants
Greg Spurlock, EVP, Neospine, LLC
Laurie Halsey, Sr. Analyst, Covenant Health
Connie Wagner, Manager, Covenant Health
Phyllis Shnyder, Director of Radiology, Covenant Health
Carol Self, Planning Analyst, Covenant Health
Mike Richardson, VP, Planning & Business Development, Covenant Health
Anita Porter, Director of Clinical Services, Volunteer Home Care
John Hackett, CFO, Volunteer Home Care
Romney Bankey, Administrator, Volunteer Home Care
Robert Wofford, Secretary/Treasurer, Volunteer Home Care
Kevin D. Lee, President, Senior Health Incorporated
Greg Neal, President, Wellmont Hawkins County Hospital
Brian Woods, Administrator, Rogersville Care and Rehabilitation Center
Troy Clark, Director of Strategy, Wellmont Health System
Mandy McKee, Wellmont Health System
Travis Capers, SHMC
Jason Searly, Wellmont Health System
Noel C. Scidmore, M.D., The Sarah Cannon Cancer Center, Parkridge Medical Center
Andrew Vernon, M.D., Diagnostic Center
Larry Samuels, M.D., Diagnostic Radiology Consultants
Joseph J. Busch, M.D., Diagnostic Radiology Consultants
Dan Hein, Assistant Administrator, Memphis Orthopaedic Group
Dr. Harold Knight, M.D.
Dr. Riley Jones, M.D.
William Southwick, Sr. VP, Healthmark Partners
Oscar "Buzz" Spivey, M.D., Middle Tennessee Surgical Care
Stan Bullen, Middle Tennessee Surgical Care

Greg Brock, Middle Tennessee Surgical Care
Sandra Curtis, Memorial – Chattanooga
Robyn Coaten, Memorial - Chattanooga
Norman Haley, Administrator, Hillcrest Healthcare
Mike Troglen, Administrator, Hillcrest Medical Nursing Institute, Inc.
Teri Webster, CEO, Hillcrest Healthcare
Sonya Lay, Senior Director, Hillcrest Medical Nursing
Andy Colling, META Association
John Sylvia, Baptist - Knoxville
Linda Penny, Comptroller of the Treasury's Office
Bruce Duncan, VP, NHC
Dere Brown, NHC
Yvette Windham, Bass, Berry & Sims
Tom Cravens, Esq, Kramer, Rayson, Leake, Rodgers & Morgan
Ron Hill, Vanderbilt University Medical Center
Chris Puri, Esq., THCA

Chairman Caldwell called the meeting to order at 8:30 a.m. in the Main Auditorium of the Bell South Tower, Nashville, Tennessee.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, made general announcements. Ms. Hill announced that the Health Planning and Advisory Board meeting that had been tentatively scheduled for February 26th and 27th was cancelled due to quorum issues. Subcommittees will continue to meet and work on the Criteria and Standards.

Ms. Hill informed members that copies of the revised Certificate of Need applications were included in their notebooks and a date will be set to discuss the revisions and implementation date of the new application.

Agenda items were discussed including the Special Emergency Certificate of Need Session scheduled to be presented to the Agency members at 1:00 p.m.

Ms. Hill concluded announcements by informing members a copy of the HSDA budget approved by the Governor and a Conflict of Interest Policy to be signed were included in their notebooks.

CONSENT CALENDAR

Melanie Hill summarized the following CON application:

Fentress Health Systems, LLC - (Jamestown, Fentress County) - Project No. CN0312-122

The relocation of an outpatient diagnostic center (ODC), previously approved by Certificate of Need No. CN0112-092A, from 220 West Central Avenue to 208 West Central Avenue, Jamestown, Tennessee. No health services will be initiated, discontinued or changed other than those diagnostic services, including MRI services that were approved in CN0112-092A. No licensure is required for this facility. Project Cost \$875,000.00.

Jerry W. Taylor, Esq. representing the applicant, addressed the Agency.

Dr. Shackleford moved for approval of the project based on: 1) Need – The relocation is only one-tenth of a mile change from the current location and it serves 50% of TennCare patients participating in two of the MCOs; 2) Economic Feasibility – The project is economically feasible through a commercial loan; and 3) The project does contribute to the orderly development of adequate and effective health care. Mr. Atchley seconded the motion. The motion CARRIED [6-0-1]. **APPROVED**

AYE: Moore, Duckett, Cunningham, Shackleford, Atchley, Caldwell

NAY: None

ABSTAINED: Weaver

CERTIFICATE OF NEED APPLICATIONS

Mark Farber summarized the following CON applications:

Neurosurgery and Spine Consultants MRI - (Knoxville, Knox County) - Project No. CN0308-070

The acquisition of a magnetic resonance imaging (MRI) unit and the initiation of in-office MRI services for the patients of Neurosurgery and Spine Consultants of East Tennessee, P.C. Project Cost \$2,185,951.00.

Byron R. Trauger, Esq., and Dr. Joel Ragland representing the applicant, addressed the Agency. Present in support of the project were John Wellborn, Consultant and Greg Spurlock, Executive Vice President, Neospine, LLC.

Dan H. Elrod, Esq. representing Covenant Health, Fort Sanders Parkwest and Fort Sanders West spoke in opposition of the project. Laurie Halsey, Sr. Analyst, Connie Wagner, Manager, and Phyllis Shnider, Director of Radiology, Carol Self, Planning Analyst, and Mike Richardson, VP, Planning & Business Development, Covenant Health were present in opposition of the project.

Mr. Duckett moved for denial of the project based on: The project does not contribute to the orderly development of adequate and effective health care as it relates to the impact of other providers in the service area and the general proliferation of specialty facilities. It does not bring any new technology to the community, and lack of any historical involvement in TennCare. Ms. Weaver seconded the motion. The motion CARRIED [6-1-0]. **DENIED**

AYE: Duckett, Cunningham, Shackleford, Weaver, Atchley, Caldwell

NAY: Moore

Volunteer Home Care, Inc. - (Humboldt, Gibson County) - Project No. CN0311-094

The addition of Lake County to the existing service area of the following counties: Gibson, Crockett, Carroll, Dyer, Henry, Stewart, Houston, Humphreys, Weakley, Obion and Benton for home health services. Project Cost \$7,000.00.

Anita Porter, RN, Clinical Services, addressed the Agency. John Hackett, CFO, Volunteer Home Care and Romney Bankey, Administrator, Volunteer Home Care spoke on behalf of the project. Robert Wofford, Secretary/Treasurer, Volunteer Home was present in support of the project.

Ms. Cunningham moved for approval of the project based on: 1) Need – The need is evident as Lake County is currently underserved, it will save patient and applicant time in mileage and increase the clinical and administrative efficiency of this home health care agency; 2) Economic Feasibility – The project is economically feasible and cash reserves in place, and the company's financials are in good standing; and 3) The project does contribute to the orderly development of adequate and effective health care, they do contract with TennCare agencies. The project allows the agency to serve Lake County, in response to the referrals and serve the needs of disabled patients and others in the area. Dr. Shackleford seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Moore, Cunningham, Shackleford, Weaver, Atchley, Caldwell

NAY: None

RECUSED: Duckett

Paris Manor Nursing Center - (Paris, Henry County) - Project No. CN0311-096

The relocation and replacement of an existing nursing center from its current location of 1000 Old Paris Murray Road, Paris (Henry County), Tennessee to a five (5) acre lot located one-fourth of a mile from the Henry County Medical Center on Volunteer Drive in Paris (Henry County), Tennessee. The replacement facility will contain 120 dually certified nursing home in lieu of the existing 135 beds dually certified nursing home beds. Project Cost \$5,063,000.00.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency.

Dr. Shackleford moved for approval of the project based on: 1) Need – The applicant has previously and does continue to meet the needs for the existing patients; 2) Economic Feasibility – The project is economically feasible. Financing will be provided by American Health Centers for start-up and a HUD construction permanent loan; and 3) The project does contribute to the orderly development of adequate and effective health care as this will relocate the patients to a better facility which will accommodate the patients by having them closer to the hospital's physician's offices. Mr. Atchley seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Moore, Duckett, Cunningham, Shackleford, Weaver, Atchley, Caldwell

NAY: None

Wellmont Hawkins County Memorial Hospital - (Rogersville, Hawkins County) - Project No. CN0311-097

The establishment of a ten (10)-bed inpatient geriatric psychiatric unit and the initiation of geriatric inpatient psychiatric services. If approved, the project will not add or increase new licensed hospital beds – ten (10) of forty (40) existing medical/surgical beds will be converted and minor modifications completed in approximately 4,000 square feet of existing space to accommodate the geriatric psychiatric unit. No major medical equipment will be purchased and no new licensed beds are requested. If approved, the bed complement of the facility will be thirty (30) medical/surgical beds, ten (10) swing beds and ten (10) geriatric psychiatric beds for a total general /pediatric licensed hospital bed complement of fifty (50) beds. Project Cost \$275,000.00.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency. Kevin D. Lee, President, Senior Health Incorporated; Greg Neal, President, Wellmont Hawkins County Hospital; Brian Woods, Administrator, Rogersville Care and Rehabilitation Center; Troy Clark, Director of Strategy, Wellmont Health System; Mandy McKee, Wellmont Health System; Travis Capers, SHMC; and Jason Searly, Wellmont Health System spoke on behalf of the project.

Ms. Cunningham moved for approval of the project based on: 1) Need – The need has been identified, as there are no other psychiatric units within a thirty (30) mile radius of this proposed expansion, the area is underserved and the need exceeds the beds; 2) Economic Feasibility – The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care as the applicant plans to develop relationships with all TennCare providers in the area, there is no duplication of services in this area, and staffing needs have been addressed. This application serves the needs of low to moderate income, rural, elderly, and mentally ill individuals. Ms. Weaver seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Moore, Duckett, Cunningham, Shackelford, Weaver, Atchley, Caldwell
NAY: None

Memphis Orthopaedic Group, P.C. - (Memphis, Shelby County) - Project No. CN0311-099

The initiation of magnetic resonance imaging (MRI) services limited to the patients of Memphis Orthopaedic Group, P.C. and the acquisition of a MRI unit. Project Cost \$1,819,000.00.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency. Dr. Riley Jones spoke on behalf of the project. Dan Hein, Assistant Administrator, Dr. Harold Knight and John Wellborn, Consultant were present in support of the project.

Dr. Shackelford moved for approval of the project based on: 1) Need – The applicant is serving 50% workers comp patients and receiving referrals; 2) Economic Feasibility – The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care with the number of orthopaedic providers in the area and the type of service they provide. Mr. Moore seconded the motion. The motion CARRIED [5-1-0]. **APPROVED**

AYE: Moore, Cunningham, Shackelford, Weaver, Atchley
NAY: Caldwell
RECUSED: Duckett

Unity Hospice Care - (Memphis, Shelby County) - Project No. CN0311-100

The establishment of a home care organization providing hospice services to the counties of Shelby, Fayette and Tipton. The office will be located in leased space at 9057 Valley Crest Lane, Suite 102, Memphis, Tennessee. Project Cost \$59,500.00.

DEFERRED TO THE APRIL MEETING

Diagnostic PET/CT of Chattanooga - (Chattanooga, Hamilton County) - Project No. CN0311-102

The establishment of an outpatient diagnostic center (ODC), the acquisition of a positron emission tomography (PET) and computerized tomography (CT) combination unit, and the initiation of PET services. Project Cost \$3,284,060.00.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency. Dr. Noel Scidmore and Dr. Andrew Vernon spoke on behalf of the project. Dr. Larry Samuels, Dr. Joseph Busch and Michael D. Brent, Esq. were present in on behalf of the project

Ms. Cunningham moved for approval of the project based on: 1) Need – This is a new standard for locating and staging cancer tumors in this area, it meets the guidelines for cancer patients and will be able to provide non-cancer related PET services as requested; 2) Economic Feasibility – The project is economically feasible and will be financed through commercial loans; and 3) The project does contribute to the orderly development of adequate and effective health care as there is an established referral base, staffing and clerical has been addressed. The applicant does intend to contract with all TennCare providers in the area. Dr. Shackelford seconded the motion. The motion CARRIED [6-1-0]. **APPROVED**

AYE: Moore, Duckett, Cunningham, Shackelford, Atchley, Caldwell

NAY: Weaver

Middle Tennessee Surgical Care, LLC - (McMinnville, Warren County) - Project No. CN0311-104

The addition of one (1) operating room (OR) to an existing two (2) OR ambulatory surgical treatment center. Upon completion the three (3) OR facility will be operated five (5) days per week. Project Cost \$51,000.00.

Michael D. Brent, Esq., representing the applicant, addressed the Agency. William Southwick, Healthmark Partners, and Dr. Oscar “Buzz” Spivey spoke on behalf of the project. Stan Bullen, Manager was present in support.

Dr. Shackelford moved for approval of the project based on: 1) Need – 50% of the cases could be handled in the procedure room and there is need for this service; 2) Economic Feasibility – The project is economically feasible, cash reserves are available, and existing space will be used; and 3) The project does contribute to the orderly development of adequate and effective health care. River Park Hospital does not take TennCare and Middle Tennessee Surgical Care is picking up approximately 25% of TennCare patients. Ms. Cunningham seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Moore, Duckett, Cunningham, Shackelford, Weaver, Atchley, Caldwell

NAY: None

EMERGENCY CERTIFICATE OF NEED

Melanie Hill summarized the following Emergency CON:

Hillcrest Health Care - (Knoxville, Knox County) - Project No.

In accordance with Tennessee Code Annotated, §§ 68-11-1606 and §68-11-1608, the Tennessee Health Services and Development Agency conducted an emergency certificate of need (CON) hearing regarding the relocation of forty-nine (49) nursing home beds from Hillcrest Healthcare North located at 5321 Tazewell Pike, Knoxville, TN 37918 to Hillcrest Healthcare West located at 6801 Middlebrook Pike, Knoxville, TN 37909. The purpose of the relocation is to move 49 beds from Hillcrest Healthcare North "B" building, a facility that lacks sprinklers, to a facility that has sprinklers. The 49 beds will be physically relocated on the upper floor of Lakebrook Place (39 beds) which is physically adjacent to Hillcrest Healthcare West where the remaining beds will be located (10 beds).

NOTE: An emergency CON is valid for 120 days. It is anticipated that the applicant will file a subsequent application for a permanent certificate of need.

Norman Haley, Administrator, addressed the Agency. Mike Troglen, Hillcrest Medical Nursing Institute and Teri Webster, CEO, Hillcrest Health Care spoke on behalf of the project.

Ms. Cunningham made the recommendation to allow Hillcrest to temporarily move sixty-one (61) patients from the Hillcrest North facility, ten (10) will go to the Hillcrest West, thirty-nine (39) will go to the upper floor of Lakebrook Place, and twelve (12) will go to the “A” building of Hillcrest North. This emergency CON is not to exceed 120 days. Dr. Caldwell concurred with the recommendation.

GENERAL COUNSEL’S REPORT

Reid Brogden, General Counsel, summarized the following modification request:

Thomas L. Gautsch, M.D. - (Gallatin, Sumner County) - Project No. CN0110-088A

Request for extension of expiration date for an additional six months, from March 1, 2004 to September 1, 2004.

Byron R. Trauger, Esq., representing the applicant, addressed the Agency.

Dr. Shackleford moved for approval of the extension. Mr. Moore seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Moore, Duckett, Cunningham, Shackleford, Weaver, Atchley, Caldwell

NAY: None

CONTESTED CASE UPDATES

Jim Christoffersen, Deputy General Counsel, offered to answer any questions regarding the contested case log and specifically the three Court of Appeals Opinions pertaining to the Health Facilities Commission.

LEGISLATIVE UPDATES

Reid Brogden, General Counsel, gave a brief update of bills that have been submitted as they relate to the Health Services and Development Agency.

CURRENT REPORTS

Statistical Reports

The reports were accepted into the record.

Finance, Ways and Means Committee Reports

The reports were accepted into the record.

Minutes

The minutes of the January 28, 2004, meeting was accepted with the correction on Page 7, Motion 2, change the word "failed" to "carried".

ADJOURNMENT

There being no further business, the meeting adjourned.

Melanie M. Hill, Executive Director

MMH/mab